

ORIGINAL

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

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DEC 17 2004

Illinois Commerce Commission
RAIL SAFETY SECTION

UNION PACIFIC RAILROAD COMPANY,

Petitioner,

vs.

T04-0015

VILLAGE OF SKOKIE, VILLAGE OF
GLENVIEW, VILLAGE OF WILMETTE,
VILLAGE OF NORTHFIELD, VILLAGE OF
NORTHBROOK, COOK COUNTY, and
ILLINOIS DEPARTMENT OF
TRANSPORTATION,

Respondents.

**VERIFIED STATUS REPORT OF VILLAGE OF SKOKIE AND REQUEST FOR
ORDER REQUIRING UNION PACIFIC TO COMPLETE REMOVAL OF CROSSING
RELATED MATERIALS AND TO REIMBURSE SKOKIE FOR COSTS INCURRED**

Now comes the Village of Skokie ("Village" or "Skokie"), Respondent, by and through its Corporation Counsel, J. Patrick Hanley, and in response to the Supplement to Petition filed by Union Pacific Railroad Company ("UP") states as follows:

I. BACKGROUND

This matter concerns the UP railroad abandonment and discontinuance of the rail line within the Village's boundaries, on which a hearing was held in April, 2004.

The Village of Skokie files this report as an update on the status of the removal of the crossings and related equipment. The UP filed a document in July indicating that it had reached an agreement with the Village. The statement is for the most part true, but it is not complete. The

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agreement to which the UP made reference was based on a telephone conversation between Mr. Wilwerding of UP and Albert J. Rigoni, the Village Manager. At the April 20, 2004, hearing in this matter, the UP agreed to reduce the agreement to writing and to submit it to the Administrative Law Judge (See pp. 47-56 of Transcript of April 20, 2004 Hearing). However, it has never been reduced to writing, only summarily set out in UP's document attached to its Petition to Supplement filed July 15, 2004. The Village's understanding of the agreement is that it has three parts, as follows:

1) The oral agreement is that the Village would do, and now has done, the actual removal of the rails, timbers and rubberized material comprising the crossings and restoration of the roadway because the Village was doing roadwork under existing contracts with contractors; therefore, it was more cost efficient for both parties.

2) The UP would be responsible for a portion of the cost of that removal and roadway restoration.

3) (a) The UP would be responsible for the removal of all equipment and foundations for the equipment, i.e., lights, crossing arms, control boxes, etc., in the rights of way adjacent to the roads.

(b) The UP would be also responsible for the removal of all debris associated with the removals of the crossing materials and any other debris from any removals of their line and equipment outside of the crossings.

The UP and the Village have yet to agree on how much the UP will reimburse the Village for the removal of the crossings and the restoration of the roadway. The Village has paid its contractors to remove the bulk of the crossing debris. The UP has removed some of the crossing

debris and a substantial portion of the adjacent equipment, but has not to date completed the removal of all crossing equipment and their foundations, and all debris.

II. SKOKIE'S POSITION

Skokie did not object to UP's petition to remove and replace the crossings. Skokie's position at the April, 2004, hearing was that: (i) all rails and crossing surfaces, whether rubber, timber or asphalt, must be removed and the roadways resurfaced; (ii) all equipment, whether flashing lights, cants, control boxes, overhead lights and poles, associated with all Crossings must be removed; and (iii) all debris resulting from the removals must be cleared and removed from the Line's right of way. Skokie requested that all work for removal of the crossings and equipment and the clearing of the sites should be accomplished at UP's sole expense. Skokie objected to leaving any of the equipment in place. Leaving the non-operational equipment in place would create a public nuisance. The equipment would be unsightly, as UP acknowledged in its Petition, and UP agreed to remove the crossing related equipment and debris resulting from the removals.

In relation to the nine roadway crossings, all of the crossings have already been removed and some equipment has been dismantled and removed. The following crossings were removed before the April, 2004, hearing, and Skokie has borne the complete costs of removal of three of the crossings and the resurfacing of the roadway. The Oakton Street (milepost 12.61) crossing was removed and resurfaced in the mid to late 1980's. The Main Street (milepost 13.12) crossing was removed completely by Skokie on or about May 30, 2003, at a cost to Skokie of Thirty Six Thousand Six Hundred and Thirty Four Dollars (\$36,634). The Dempster Street (milepost 13.64) crossing was removed and resurfaced completely by Skokie on or about August 23, 2003, at a cost

to Skokie of Fifteen Thousand and Thirty Five Dollars (\$15,035). The Church Street (milepost 14.15) crossing was removed and resurfaced by the County of Cook in July of 2003. The Pedestrian Path (milepost 13.51) crossing for access to the Skokie Swift Chicago Transit Authority station was removed in 2003 and the walkway has been replaced by Skokie, at a cost to Skokie of Four Hundred and Ninety Five Dollars (\$495).

In 2004, after the April submissions and hearing in this matter, the Village removed and resurfaced the remaining crossings and incurred the stated costs (See Exhibits M and N attached hereto), as follows: (i) the Searle Parkway crossing (milepost 12.83) at a cost of Twenty One Thousand Four Hundred and Ninety One Dollars (\$21,491); (ii) the Niles Center crossing (milepost 13.18) at a cost of Twenty Five Thousand Two Hundred Ninety Three Dollars (\$25,293); (iii) the Gross Point Road crossing (milepost 13.87) at a cost of Twenty Thousand and One Hundred Thirty Three (\$20,133); (iv) the Golf Road crossing (milepost 14.67) at a cost of Twenty Three Thousand Eight Hundred and Eighty Seven Dollars (\$23,887). The Old Orchard crossing (mile post 15.18) was removed by the County of Cook.

Although the above removals and resurfacings have already taken place, all without any payment of costs from UP, much debris from the removals and old equipment associated with the crossings remain in the UP's right of way adjacent to the referenced public ways. Skokie requests that the UP be ordered to immediately remove the remaining debris, material and equipment in the interests of public safety, as detailed below.

III. CONDITIONS AT EACH CROSSING AND ACTIONS REQUESTED OF U.P.

The conditions described below have changed at many of the crossings since the Village's prior Response, with photographs as Exhibits, was submitted in April, 2004, and the current conditions are depicted the photographs attached hereto as Exhibits. The Affidavit of William J. Bablitz is attached hereto as Exhibit L, attesting that he took the photographs listed as Exhibits A through K herein on the dates designated on the respective Exhibits, April 2, August 12 and December 7, 2004. The Village respectfully requests the Commission to issue an order requiring UP to take the following actions within sixty days, at its sole expense, in relation to each Crossing:

- A. Oakton Street. See Exhibit A, showing condition as of 12-7-04. Remove manhole and ties from north side of crossing.
- B. Searle Parkway.
 - 1. Extract and remove the signal control box, control box foundation and manhole on south side. See Exhibit B, showing condition as of 8-12-04, unchanged to date except for removal of ties.
 - 2. Remove signal conduit, ties, and cable lying in right of way on north side. See Exhibit C, showing condition as of 12-7-04.
 - 3. Haul all remaining debris from the removal from the site.
- C. Main Street. See par. D below regarding area between Main Street and Niles Center Road.
- D. Niles Center Road on south side.
 - 1. Remove signal control box, control box foundation and manhole. See Exhibit D, showing condition as of 8-12-04, unchanged to date.

2. Haul any remaining debris from removal from site.
- E. Pedestrian Path on north side of path, at Skokie Swift Station site. See Exhibit E, showing condition as of 12-7-04.
1. Remove signal control box, control box foundation and manhole.
 2. Remove or correct broken and bent wooden pole for aerial signal cable leaning dangerously near paved pedestrian path to Skokie Swift CTA Station.
 3. Haul all debris from removal from site.
- F. Dempster Street on south side. See Exhibit F, showing condition as of 8-12-04, unchanged to date.
1. Remove signal control box, control box foundation and manhole.
 2. Haul all debris from removals away from site.
- G. Gross Point Road northwest side. See Exhibit G, showing condition as of 12-7-04.
1. Remove signal control box, signal control foundation, and other foundation concrete still remaining on northwest side of Gross Point.
 2. Haul all debris from removals away from site.
- H. Church Street on north side. See Exhibit H, showing condition as of 4-2-04 unchanged to date.
1. Remove signal control box, signal control foundation, manhole and other foundation concrete still remaining on north side of Church Street.
 2. Haul all debris from removals away from site.
- I. Old Orchard Road, both sides. See Exhibits I, J and K, showing conditions as of 12-7-04.

1. Remove signal control box, signal control foundation and ties on south side, as shown in Exhibit I.
2. Remove debris, poles, crossing signal equipment previously taken down and ties lying on ground on north side.
3. Haul all debris from removals away from site.

In relation to the costs of removal of crossings and restoration of roadway to be borne by the UP, Skokie requests that the Commission order the UP to reimburse Skokie 75% of the total costs of removals and roadway replacement of the crossings, as well as to remove the remaining equipment and debris within 30 days of the date of the Order entered pursuant to this request. Skokie's total incurred costs are detailed above in part II of this Report, and the costs for the crossing removal work since April, 2004, are further itemized in the attached Exhibits M and N. The total amount of that the Village incurred is therefore One Hundred Forty Two Thousand and Nine Hundred Sixty Eight Dollars (\$142,968), 75% of which equals One Hundred Seven Thousand and Two Hundred Twenty Six Dollars (\$107,226), the amount that the UP should justly be ordered to reimburse to the Village.

In addition, public safety would be promoted by the removal of all track, including rails and ties, and all equipment in the abandoned portion of the Line. The Village of Skokie requests that the Commission issue an order requiring UP to: remove all track, including rails, ties, ballast and associated equipment, from the right of way of the abandoned portion of the Line; restore the area with top soil and seed it and properly maintain the area.

IV. CONCLUSION

Wherefore, pursuant to the matters set out in this Report regarding the prior understandings and representations of the parties to this Commission in documents and at the hearing of April 20, 2004, and the current status of the Union Pacific's incomplete performance of its agreed obligations, the Village of Skokie respectfully requests this Commission to order the Union Pacific to perform to completion the actions stated in paragraphs III A-I set out above, and to reimburse the Village of Skokie for work previously performed on behalf of Union Pacific in the amount of One Hundred Seven Thousand and Two Hundred Twenty Six Dollars (\$107,226), all within 30 days of the entry of the order.

Respectfully Submitted,

Village of Skokie

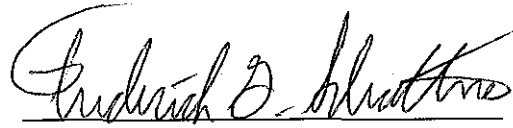
By: 

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VERIFICATION

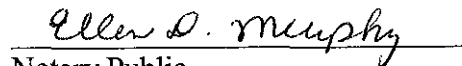
The undersigned, Frederick G. Schattner, Director of Engineering for the Village of Skokie, in charge of keeping the official records and supervising activities of the Engineering Division, being first duly sworn, upon oath states that the matters set forth in the foregoing instrument are true and correct to the best of his knowledge and as reflected in the records of the Engineering Division.



Frederick G. Schattner,
Director of Engineering
Village of Skokie

State of Illinois)
County of Cook)

Subscribed and sworn to
before me this 10th
day of November, 2004.

 (Seal)
Notary Public

